



Council Report

To: The Honorable Mayor and City Council

From: Aleem A. Ghany, P.E., Director of Public Works

Date: January 10, 2012

RE: **AGREEMENT ENTERED INTO BY AND BETWEEN THE CITY OF NORTH MIAMI (HEREINAFTER "CITY") AND MIAMI-DADE COUNTY (HEREINAFTER "COUNTY"), A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA.**

RECOMMENDATION

Staff is recommending that Mayor and Council approve attached agreement with Miami-Dade County.

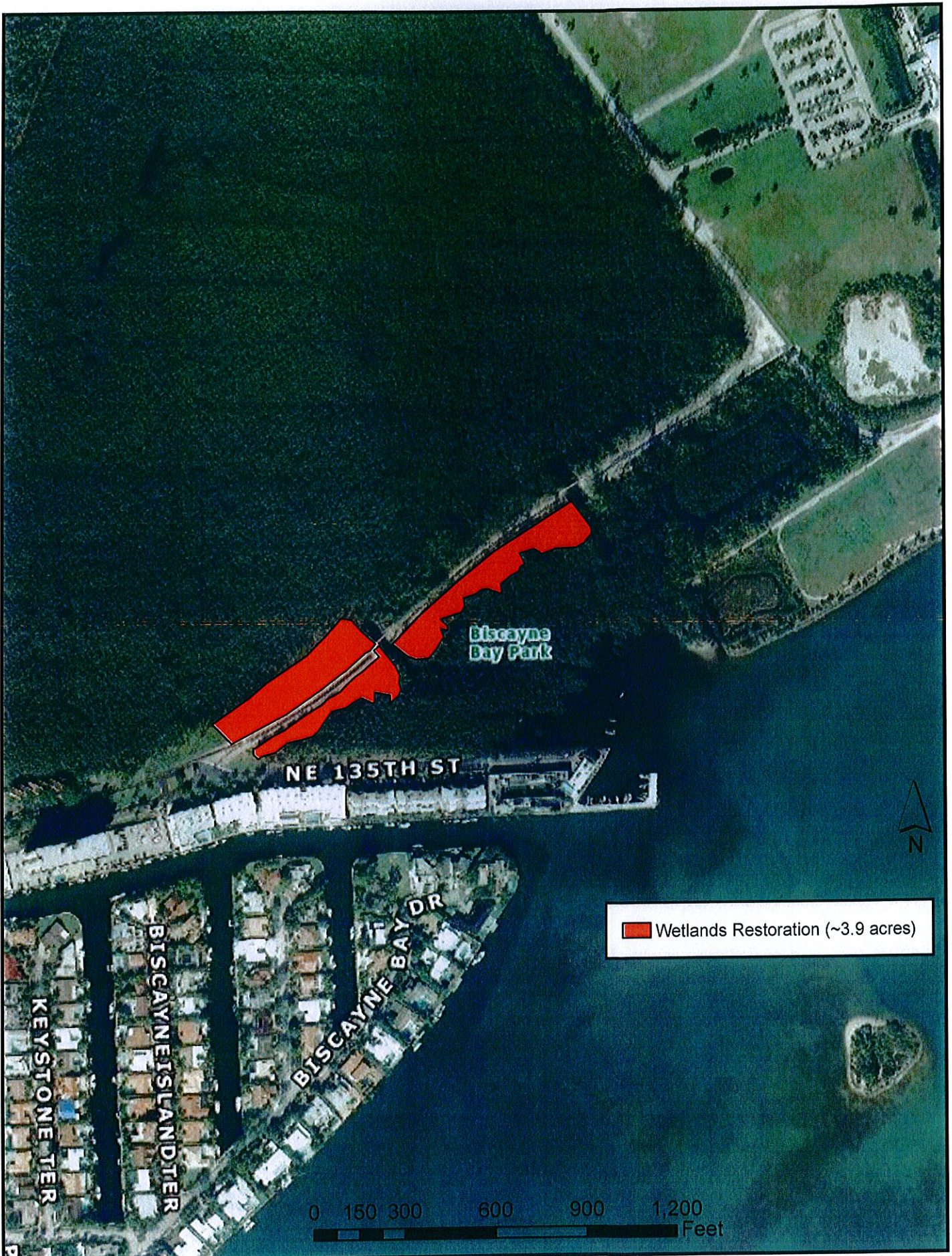
BACKGROUND

The objective of this Agreement is to establish the standards, terms, and conditions under which the CITY and the COUNTY shall implement a wetland restoration (hereinafter "the restoration") on the property of the CITY, along Arch Creek East Boulevard, North Miami, FL. The wetland restoration to be constructed is illustrated in detail in Exhibit A. This project will result in the re-establishment of native wetland plant communities through the removal of exotic vegetation and re-grading of areas depicted in Exhibit A, inclusive of removal of historically deposited dredge fill material, and the planting of red mangroves.

Attachments

Agreement

Exhibit A



RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF AGREEMENT, IN SUBSTANTIALLY THE ATTACHED FORM, BETWEEN THE CITY OF NORTH MIAMI AND MIAMI-DADE COUNTY, TO ESTABLISH THE STANDARDS, TERMS AND CONDITIONS FOR MIAMI-DADE COUNTY'S RESTORATION OF APPROXIMATELY FOUR (4) ACRES OF CITY OWNED WETLANDS ALONG ARCH CREEK EAST BOULEVARD; PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER PURPOSES.

WHEREAS, the City of North Miami ("City") desires to conduct wetlands restoration in the area along Arch Creek East Boulevard, as indicated in "Exhibit A" ("Wetlands Property"); and

WHEREAS, Miami-Dade County, through the Biscayne Bay Restoration and Enhancement Program, is proposing to restore the Wetlands Property with funding and specialized personnel from Miami-Dade County; and

WHEREAS, the restoration of Wetlands Property will include the removal of exotic vegetation, the removal and proper disposal of fill, and the planting and monitoring of the restored mangroves; and

WHEREAS, to implement the restoration of the Wetlands Property, a Memorandum of Agreement ("Agreement") is required to be executed between the City and Miami-Dade County in order to establish the standards, terms and conditions of the restoration project; and

WHEREAS, the City Manager respectfully requests that the Mayor and City Council of the City of North Miami authorize the execution of the Agreement with Miami-Dade County, as being in the best interest of the City.

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:

Section 1. **Authority to City Manager.** The Mayor and City Council of the City of North Miami, Florida, hereby authorize the City Manager to execute a Memorandum of

Agreement, in substantially the attached form, between the City of North Miami and Miami-Dade County, to establish the standards, terms and conditions for Miami-Dade County's restoration of approximately four (4) acres of City owned wetlands along Arch Creek East Boulevard.

Section 2. **Effective Date.** This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, this _____ day of January, 2012.

ANDRE D. PIERRE, ESQ.
MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

ROLAND C. GALDOS
INTERIM CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Seconded by: _____

Vote:

| | | |
|--------------------------------------|-------------|------------|
| Mayor Andre D. Pierre, Esq. | _____ (Yes) | _____ (No) |
| Vice Mayor Marie Erlande Steril | _____ (Yes) | _____ (No) |
| Councilperson Michael R. Blynn, Esq. | _____ (Yes) | _____ (No) |
| Councilperson Scott Galvin | _____ (Yes) | _____ (No) |
| Councilperson Jean R. Marcellus | _____ (Yes) | _____ (No) |

MEMORANDUM OF AGREEMENT
BETWEEN
THE CITY OF NORTH MIAMI, FLORIDA

AND

MIAMI-DADE COUNTY, FLORIDA

This Agreement is entered into by and between the City of North Miami (hereinafter "CITY") and Miami-Dade County (hereinafter "COUNTY"), a political subdivision of the State of Florida.

ARTICLE I - BACKGROUND AND OBJECTIVES

The objective of this Agreement is to establish the standards, terms, and conditions under which the CITY and the COUNTY shall implement a wetlands restoration (hereinafter "the restoration") on the property of the CITY, along Arch Creek East Boulevard, North Miami, FL. The wetlands restoration to be constructed is illustrated in detail in Exhibit A. This project will result in the re-establishment of native wetland plant communities through the removal of exotic vegetation and re-grading of areas depicted in Exhibit A, inclusive of removal of historically deposited dredge fill material, and the planting of red mangroves.

WHEREAS, the CITY is desirous to conduct wetlands restoration within its property located along Arch Creek East Boulevard;

WHEREAS, the COUNTY through the Biscayne Bay Restoration and Enhancement Program is proposing to restore historic wetlands within the City of North Miami;

WHEREAS, the restoration activities consist of the removal of exotic vegetation, the removal and proper disposal of fill, and the planting and monitoring of the restored mangroves;

WHEREAS, COUNTY staff has specialized knowledge and expertise regarding the planning, design, implementation and monitoring of mangrove restoration projects:

NOW, THEREFORE, in consideration of these premises contained herein, the parties agree as follows:

ARTICLE II - AUTHORITY

This Agreement authorizes the removal of invasive exotic vegetation, removal of soils & fill, planting of wetland species, consistent with the activities described in Article III "STATEMENT OF WORK" of this agreement, and coordinate the long term success monitoring of the areas illustrated in Exhibit A.

ARTICLE III - STATEMENT OF WORK

A. The COUNTY'S Responsibilities

1. The COUNTY's Permitting , Environment & Regulatory Affairs (hereinafter "PERA") shall be responsible for administrative oversight of the plan to ensure compliance with plan goals, procedures, and methods of the restoration effort.
2. The COUNTY is proposing to conduct approximately 4 acres of red mangrove (*Rhizophora mangle*) restoration within the City of North Miami. Work conducted will include removal of invasive exotic vegetation, removal of soils & fill, and planting of wetland species to create/restore approximately 4 acres of red mangrove habitat. Please see Exhibit A.
3. The COUNTY shall be responsible for project funding, inclusive of permit application/submission and related processing fees; developing, writing and awarding of contracts or cooperative agreements regarding implementation of the work, for scheduling, hiring and payment of personnel, and for purchase or rental of supplies, materials and equipment needed for project implementation and administration.
4. The COUNTY, shall be responsible for the coordinating submissions for all required federal state and local permits. This shall include drafting, review, submission of permit applications and any coordination of any required responses requested by the permitting agencies. Costs for these activities are considered 'project costs', and thus are budgeted within the Scope of Work.
5. The COUNTY and the COUNTY'S employees, the COUNTY'S contractor(s), agents and subcontractors, shall coordinate work on the sites illustrated in Exhibit A with CITY administrators to minimize interference with ingress and egress to the sites illustrated in Exhibit A.
6. The COUNTY, COUNTY'S employees, and the COUNTY'S contractors, agents, and subcontractors shall require that all work performed in compliance with all applicable federal, state and local safety regulations and all safety project provisions associated with the COUNTY construction contract.

B. The CITY'S Responsibilities

1. Review of Project. The CITY shall participate in the planning, design and implementation of the project restoration plan.

2. The CITY agrees to have the County serve as its agent for permitting purposes, and shall review and execute all required federal, state and local permit applications required for the performance of the work.
3. The CITY shall grant the COUNTY, the COUNTY'S employees, the COUNTY'S contractor(s), agents and subcontractors, access to the sites illustrated in Exhibit A to perform wetlands restoration.
4. The access provided to the COUNTY and the COUNTY employees, the County's contractor(s), agents and subcontractors, shall be limited to the terms and conditions set forth herein, and is not intended to provide any additional rights not expressly set forth herein.

C. Shared Responsibilities

All notices required or permitted to be given under the terms and provisions of this Agreement by either party to the other shall be in writing and shall be sent by mail or electronically to the Key Officials as identified in article V.

ARTICLE IV - TERMS OF AGREEMENT

- A. This Agreement shall be for term of three (3) years, beginning on the date of execution, unless it is terminated earlier by one of the parties pursuant to Article X.
- B. Continuation of this Agreement (in whole or in part) beyond the third year is contingent upon the availability of funds and is limited to no more than five (5) years total.

ARTICLE V - KEY OFFICIALS

A. Key officials are essential to ensure maximum coordination and communication between the parties and the work being preformed. For the purposes of this agreement, the Key Officials are:

1. For the CITY:

TBD

2. For the COUNTY:

Mr. Charles Danger,
Director, PERA
701 N.W. 1st Court;
Suite 400
Miami, Florida 33136
Telephone: (305) 372-6754
Facsimile: (305) 372-6759

Miami-Dade Project Manager, to whom all required correspondence, inquires and communications should be directed:

Mr. Gary Milano,
Environmental Resource Project Supervisor
701 N.W. 1st Court;
Suite 400
Miami, Florida 33136
E-mail: milang@miamidade.gov
Telephone: (305) 372-6851
Facsimile: (305) 372-6659

B. Changes in Key Officials: Neither the CITY nor the COUNTY may make any permanent changes in a key official without written notice being received by the other party, prior to the effective date of the proposed change.

ARTICLE VI - PRIOR APPROVAL

Not Applicable

ARTICLE VII – LIABILITY

1. The COUNTY does hereby agree to indemnify and hold harmless the CITY to the extent and within the limitations of Section 768.28, Fla. Stat., subject to the provisions of that Statute whereby the COUNTY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$100,000, or any claim or judgements or portions thereof, which, when totaled with all other occurrences, exceeds the sum of \$200,000, from any and all personal injury or property damage claims, liabilities, losses and causes of action which may arise solely as a result of the negligence of the COUNTY. However, nothing herein shall be deemed to indemnify the CITY from any liability or claim arising out of the negligent performance or failure of performance of the CITY or any unrelated third party.
2. The CITY does hereby agree to indemnify and hold harmless the COUNTY to the extent and within the limitations of Section 768.28, Fla. Stat., subject to the provisions of that Statute whereby the CITY shall not be held liable to pay a personal injury or property damage claim or judgement by any one person which exceeds the sum of \$100,000, or any claim or judgements or portions thereof, which, when totaled with all other occurrences, exceeds the sum of \$200,000, from any and all personal injury or property damage claims, liabilities, losses and causes of action which may arise solely as a result of the negligence of the CITY. However, nothing herein shall be deemed to indemnify the COUNTY from any liability or claim arising out of the negligent performance or failure of performance of the COUNTY or any unrelated third party.

ARTICLE VIII - REPORTS AND/OR OTHER DELIVERABLES

Data summaries and/or reports will be generated by the COUNTY and provided to the CITY on an annual basis (from Agreement execution) to communicate progress of the program. Said reports shall include a general description of the work performed to date, progress made since last report, outstanding tasks to be completed, maps showing the projected vs. actual treatment area, comparison of work performed to work projections, presentation and discussion of monitoring results collected to date and general observations.

ARTICLE IX - PROPERTY UTILIZATION

Not Applicable

ARTICLE X - MODIFICATION AND TERMINATION

- A. This Agreement may be modified by amendment upon mutual written agreement of both parties.

- B. Either party may terminate this Agreement at any time by providing sixty (60) days advance written notice to the other party. In the event that one party provides the other party with notice of its intention to terminate, the parties will meet promptly to discuss the reasons for the notice and to try to resolve their differences, if any. Prior to termination the parties will agree upon the termination conditions including, without limitation, subsequent notice requirements, and the effective date of the termination.

ARTICLE XI - SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) set forth below.

FOR THE CITY OF NORTH MIAMI:

Signature: _____

Name: _____

Title: _____

Date: _____

FOR MIAMI-DADE COUNTY:

Signature: _____

Name: _____

Title: Mayor or Mayor's Designee

Date: _____

Approved by County Attorney
as to form and legal sufficiency _____